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UNCLAS SECTION 01 OF 02 PHNOM PENH 000295

SENSITIVE
SIPDIS

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [KJUS](#) [CB](#)
SUBJECT: MAY 7: PROSECUTORS WILL HEAR PLAINTIFF ARGUMENTS
IN BOTH PM HUN SEN AND MP MU SOCHUA CASES

REF: A. PHNOM PENH 279
[1](#)B. PHNOM PENH 273

SENSITIVE BUT UNCLASSIFIED

[1](#)1. (SBU) SUMMARY: On the eve of deposition-taking in politically charged defamation cases involving Prime Minister Hun Sen and opposition parliamentarian Mu Sochua (refs), Charge May 6 called on Minister of Justice Ang Vong Vathana to urge restraint in how the Cambodian justice system handles these cases. The minister emphasized there was no prospect of jail time for Mu Sochua, but did note that defamation is a petty criminal offense subject to criminal procedures, thus raising the prospect of maneuvers over parliamentary immunity. The attorneys for both PM Hun Sen and Sam Rainsy Party (SRP) MP Mu Sochua will appear before the Phnom Penh Municipal Court on May 7 in support of the complaints each filed on behalf of their clients at the end of April. Both attorneys will be questioned by prosecutors and asked to provide additional details about the complaints. There is no indication, yet, of when each side might be called as defendants. END SUMMARY.

[1](#)2. (SBU) Mu Sochua has stated several times over the past few days that she is "ready to defend herself" in court, although this stage of the process appears limited to clarifying the plaintiff positions in each case. Hun Sen's lawyer, Ky Tech, will appear at court the morning of May 7. Lawyer Kong Sam Un told local embassy staff (LES) that he will appear at the Phnom Penh municipal court on behalf of Mu Sochua the same day at 2:30 p.m. in response to a summons letter from the investigating prosecutor, who will question him. The proceeding is conducted behind closed doors and becomes part of a privileged, close-hold record, according to Cambodia's French-based civil code procedure. (NOTE: Embassy will send an LES to show a presence and secure a read-out of the proceedings. END NOTE.)

More Serious Cases Afoot?

[1](#)3. (SBU) Kong Sam Un, told Poloff that Mu's case was filed pursuant to Article 63 of the UNTAC code, for defamation (Ref B). While the news accounts thus far have stated that the Prime Minister's suit against Mu is also for "defamation," some journalists have speculated that the Prime Minister may pursue his complaint under the UNTAC Articles for incitement and disinformation, which are much more serious charges. While the prison sentence provisions for defamation were removed in 2006, they still exist for both incitement and disinformation.

[1](#)4. (SBU) One reliable but unconfirmed report circulating in Phnom Penh suggests that this more serious government response to the Mu Sochua complaint came as the result of a letter to Hun Sen from the Assembly of the Inter-Parliamentary Union (AIPU), (NOTE: This is the

strongly worded foreign-sourced attack on Hun Sen that Khieu Kanharith mentioned to the DCM -- see Ref A. END NOTE.) While the facts on the ground in Cambodia had not changed, and Hun Sen initially had a more moderate response, the PM unleashed his vitriolic rhetoric on Mu Sochua (Ref A) reportedly after he saw the AIPU letter.

Minister of Justice: Mu Sochua Can Find a Way Out

15. (SBU) The Charge noted to the Justice Minister that the U.S. Embassy has a strong interest in the Mu Sochua case and that it was time to lower the rhetoric, and resolve the cases as expeditiously as possible with no threats or charges that could lead to arrest. Minister Ang expressed his agreement, stating that Mu Sochua could help herself by writing a letter to PM Hun Sen stating her regret at their mutual misunderstanding and noting their need to return to the work of the country. On the defamation charge, the Minister noted he himself had helped "de-criminalize" the count so that it carried no jail time. However, he clarified that despite the government's claims to have "de-criminalized" the law, the defamation charge actually remained a "petty crime" and so was subject to the criminal procedures code. The minister repeated that there would be no jail time associated with that charge, nor would pre-trial detention apply, though it remained unclear whether the prosecutor would seek to lift her immunity in pursuit of the defamation case.

16. (SBU) COMMENT: The May 7 court appearances are routine at the start of court actions in Cambodia, and can be viewed as the information-gathering stage of the process. It is,

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however, a serious step in the process, because both investigating prosecutors have the power to pursue criminal indictments, or to dismiss the cases, based on their findings. While Mu's parliamentary immunity may indeed be lifted, there are no indications that her arrest is imminent.

But the mention of using the incitement and/or disinformation articles is worrisome. Council of Ministers spokesman Phay Siphan said on May 5 that the insistence on interpreting the Prime Minister's "cheung khlang" comment to mean "prostitute" (Ref B) would make "people hate Samdech (Hun Sen)," which may be an attempt to lay groundwork for the stronger charges, particularly incitement. In the meantime, the account of the AIPU letter suggests that quiet diplomacy remains the best tactic for moderate forces in the government to prevail on the future course of these cases. END COMMENT.
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